

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MINH NGUYEN §
§ CIVIL ACTION NO. 4:20-cv-563
§
V. § (District Court of Harris County, Texas
§ 11th Judicial District,
§ Cause No. 2019-58469)
§
GEOVERA SPECIALTY §
INSURANCE COMPANY §

NOTICE OF REMOVAL

Defendant GeoVera Specialty Insurance Company (“GeoVera”) through undersigned counsel and pursuant to 28 U.S.C §§ 1441 and 1446, files this Notice of Removal of the action captioned as follows: *Minh Nguyen v. GeoVera Specialty Insurance Company*, Cause No. 2019-58469, on the docket of the 11th Judicial District Court of Harris County, Texas. In support of this Notice of Removal, GeoVera respectfully represents the following:

1. On August 21, 2019, Plaintiff Minh Nguyen sued GeoVera in the 11th Judicial District Court of Harris County, Texas, for Breach of Contract, Violation of the Texas Insurance Code’s Prompt Payment of Claims Act, and Bad Faith for various alleged violations of the Texas Insurance Code.¹ Her lawsuit arises from a claim she made on her homeowners’ Policy issued by GeoVera, for alleged damage to her home caused by Hurricane Harvey.²

2. GeoVera was served with the lawsuit on October 28, 2019. Plaintiff alleged that “she seeks a maximum amount of damages that does not exceed the sum or value of \$74,000 exclusive of interest and costs.”³ Plaintiff also asserted “the matter in controversy does not exceed

¹ Exhibit A, Plaintiff’s Original Petition, Requests for Disclosures, Request for Production, Interrogatories, Requests for Admission, and Jury Demand, ¶17-25.

² Id. at ¶12.

³ Id. at ¶2.

the sum or vale of \$75,000, exclusive of interests and costs.”⁴

3. This case became removable on January 22, 2020 when the appraisal award was issued with an actual cash value amount of \$81,377.96.⁵ 28 U.S.C. § 1446 (b)(3); Knudson v. Sys. Painters, Inc., 634 F. 3d 968, 973-74; Ritchie v. Williams, 395 F.3d 283, 287 n. 2 (6th Cir. 2005); Sullivan v. Conway, 157 F.3d 1092, 1094 (7th Cir. 1998). Defendant files this notice of removal within 30 days after receiving the appraisal award. Removal is based on diversity: and within one year of commencement of the suit as required by 28 U.S.C. § 1446 (c)(1); 28 U.S.C. §1446 (b)(3); Price v. Wyeth Holdings Corp., 505 F.3d 624, 630-31 (7th Cir. 2007); Harris v. Bankers Life & Cas. Co., 425 F.3d 689, 694-96 (9th Cir. 2005); Ritchie, 395 F.3d at 287 n.2.

4. Removal is proper because there is complete diversity between the parties. 28 U.S.C. §1332(a); Johnson v. Columbia Props. Anchorage, LP, 437 F.3d 894, 899-900 (9th Cir. 2006). Plaintiff is a citizen of Texas.⁶ GeoVera is a citizen of California.⁷ Additionally, the amount in controversy exceeds \$75,000, excluding interest and costs. 28 U.S.C. §1332(a); Andrews v. E.I. du Pont de Nemours & Co., 447 F.3d 510, 514-515 (7th Cir. 2006). The appraisal award establishes that the actual cash value of the damages is \$81,377.96.⁸ GeoVera’s Policy contains a Wind/Hailstorm deductible of \$8,640.00.⁹ GeoVera previously paid \$15,058.15 on the Plaintiff’s claim.¹⁰ GeoVera concedes that \$20,137.19 is owed on the appraisal award, but that the remainder of the award is not payable pursuant to the terms and conditions contained in the Policy.¹¹ Subtracting the deductible, the prior payments, and the conceded amount owed, the remaining

⁴ Id.

⁵ Exhibit B-1, Executed Appraisal Award.

⁶ Ex. A at ¶4.

⁷ Ex. B, Affidavit of Joseph Belton.

⁸ Ex. B-1.

⁹ Exhibit C, Certified Copy of Policy No. GC60026790, at pg. 1.

¹⁰ Ex. B.

¹¹ Id.

damages are \$37,532.62. Plaintiff seeks, among other things, treble damages.¹² Given the amount of actual damages in dispute, the amount in controversy undoubtedly exceeds \$75,000.00 without consideration given to Plaintiff's prayer for attorney's fees, interest, and other damages.

5. Venue is proper in this district court under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

6. Plaintiff did demand a jury in the state-court suit.

7. There is complete diversity among the parties, and the amount in controversy exceeds \$75,000.00. For these reasons, defendant asks the Court to remove the suit to the United States District Court, Southern District, Houston Division.

REMOVAL PROCEDURE

8. GeoVera has provided the clerk of the 11th Judicial District Court of Harris County, Texas with notice of this removal.

9. Pursuant to Local Rule 81, copies of the following documents are hereby provided to the clerk of this Court for filing in connection with this Notice of Removal:

- a. All executed process in the case;
- b. Pleadings asserting causes of action and all answers to such pleadings;
- c. An index of matters being filed; and
- d. A list of all counsel of record, including addresses, telephone numbers and parties represented.

WHEREFORE, GeoVera provides notice that this action is duly removed.

[signature on following page]

¹² Ex. A at ¶32.

Respectfully submitted,

/s/ *Christine R. Edwards*

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above pleading has been forwarded via electronic filing and/or facsimile, on this the 19th day of February 2020 to:

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